

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DAVID FLOYD, *et al.*,

08 Civ. 01034 (SAS)

Plaintiffs,

-against-

DECLARATION

THE CITY OF NEW YORK, *et al.*,

Defendants.

DECLARATION OF DAVID OURLICHT IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION FOR STAY

I, David Ourlicht, pursuant to 28 U.S.C. § 1746 and subject to the penalties of perjury, declare that the following is true and correct:

1. I submit this affidavit in support of Plaintiffs' opposition to City of New York's motion seeking to stay this Court's Opinion and Order of August 12, 2013 regarding Remedies (the "Remedies Order").
2. I am one of the named plaintiffs in this action. My racial background is black and white; my father is black, and my mother is white.
3. As I testified at the trial of this action, as of that time I had been stopped three times by officers of the New York Police Department ("NYPD"). As the Court found in its Liability Decision, on at least one of those occasions the officer who stopped me lacked any basis for reasonable particularized suspicion that I was committing a crime. (Liability Decision at 148). The Court also found that the officers who frisked and searched me had no reasonable basis to believe that I was armed and dangerous. *Id.* at 148-49.

4. Since I testified at trial, I was stopped by NYPD officers a fourth time under circumstances that strongly suggest that the stop was illegal. On August 25, 2013, I was stopped at the corner of 170th Street and Grand Concourse, in the Bronx, by three officers who falsely claimed that I had been shouting. The badge numbers of the three officers who stopped me are 5729, 24350 and 239. During this encounter an NYPD paddy wagon appeared. One of the three officers who initially stopped me then gave me a summons for "Dis Con [which I assume means "Disorderly Conduct"] unreasonable noise". A copy of the summons is attached hereto as Exhibit A. The officer who gave me the summons told me at the time that the only reason why she was giving it to me is because her sergeant -- who had not witnessed the conduct in which I allegedly engaged and on which the officer's decision to stop me was supposedly based -- instructed her to do so. This female officer also told me that if I contested the summons I would win.

5. On none of the four occasions on which I was stopped by NYPD was I committing or about to commit any crime or violation. On each occasion I felt humiliated, and that the NYPD did not want me to be on the streets of New York. On the basis of my experiences, and the NYPD stop and frisk encounters many of my friends and acquaintances, all members of the class I represent, as well as the experiences of the class members who testified at trial, I am distrustful and fearful of the NYPD. I also felt scared and helpless each time I was stopped. NYPD officers have guns and a lot of power.

6. I chose to serve as a named plaintiff in this lawsuit because I want these kinds of humiliating and illegal encounters to stop happening to me, my friends and loved ones, and other people of color across New York City. I believe that the remedies ordered by the Court, including the retraining of officers about when it is legal to stop and when it is legal to frisk a

person, as well as the Joint Remedy Process, will achieve this goal and increase community trust of the police in the long term. However, until real changes to the NYPD's stop-and-frisk policies and practices are fully developed and implemented, I will continue to feel that every time I am on the streets of New York, I am in danger of being stopped by NYPD officers on the basis of my race and without regard to whether I am committing or about to commit any crime or violation.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: September 5, 2013



A handwritten signature in black ink, appearing to read "DAVID CURLICHT". The signature is fluid and cursive, with some loops and variations in line thickness. Below the main signature, there is a smaller, less distinct signature that appears to end in "2013".

EXHIBIT A

Name (Last, First, MI)		Apt. No.				
David; ORIENT						
Street Address						
915 1/2 Ave						
City		State	Zip Code			
NEW YORK		NY				
ID/License Number		State	Type/Class			
		245-0041	3/13/13			
Expires (mm/dd/yy)		Sex				
11/10/87		M				
Date of Birth (mm/dd/yy)	Ht	Wt	Eyes			
11/10/87	58	100	B1			
Hair	Plate/Reg					
B1						
Reg State	Expires (mm/dd/yy)	Plate Type	Veh Type	Make	Year	Color
The Person Described Above is Charged as Follows:						
Time 24 Hour (hh:mm)	Date of Offense (mm/dd/yy)			County		
0210	08/25/13			NYC Pink Copy BX		
Place of Occurrence						
1401 Grand concourse						
NYC Pink Copy BX						
In Violation of	Subsection	VTL	Admin. Code	Penal Law	Park Rules	Other
Section	200-200	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Title of Offense:						
Discon unreasonable noise						
Bronx Criminal Court - 215 E 161 st Street, Bronx, NY 10451						
Kings Criminal Court - 346 Broadway, New York, NY 10013						
Redhook Community Justice Center - 88-94 Visitation Place, Brooklyn, NY 11231						
New York Criminal Court - 346 Broadway, New York, NY 10013						
Midtown Community Court - 314 W 54 th Street, New York, NY 10019						
Queens Criminal Court - 120-55 Queens Boulevard, Kew Gardens, NY 11415						
Richmond Criminal Court - 67 Targee Street, Staten Island, NY 10304						
Defendant stated in my presence (in substance):						
I personally observed the commission of the offense charged herein. False statements made herein are punishable as a Class A Misdemeanor pursuant to section 210.45 of the Penal Law. Affirmed under penalty of law.						
Complainant's Full Name Printed		Rank/Full Signature of Complainant			Date Affirmed (mm/dd/yy)	
R. D. P. M.		P. O. M. H. S.			8/25/13	
Agency	Tax Reg#	Complaint Code				
NYPD	9530	0153				
The person described above is summoned to appear at NYC Criminal Court, located at:					Summons Part	County
215 E 161 st Street					A129	BX
Date of Appearance (mm/dd/yy)		At 9:30 a.m.				
8/25/13						

DEFENDANT'S COPY

441-863102